

1
2 UNITED STATES DISTRICT COURT
3 DISTRICT OF NEVADA

4 * * *

5 JACOB ANGELO MASSEY,

6 Plaintiff,

7 v.

8 DANIEL J. COVERLY, *et al.*,

9 Defendants.

Case No. 3:24-cv-00291-ART-CLB

DISMISSAL ORDER

10
11 Plaintiff Jacob Massey (“Plaintiff”) brings this civil-rights action under 42
12 U.S.C. § 1983 to redress constitutional violations that he claims he suffered
13 while detained at Douglas County Sheriff’s Office. (ECF No. 10 at 1.) On January
14 30, 2025, this Court ordered Plaintiff to update his address and file an
15 application to proceed *in forma pauperis* by a non-prisoner by March 3, 2025.
16 (ECF No. 15 at 1.) That deadline expired without an updated address from
17 Plaintiff, and his mail from the Court is being returned as undeliverable. (See
18 ECF No. 16.) Plaintiff also failed to file an application to proceed *in forma*
19 *pauperis* by a non-prisoner or pay the full filing fee of \$405.

20 **I. DISCUSSION**

21 District courts have the inherent power to control their dockets and “[i]n
22 the exercise of that power, they may impose sanctions including, where
23 appropriate . . . dismissal” of a case. *Thompson v. Hous. Auth. of City of Los*
24 *Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action based
25 on a party’s failure to obey a court order or comply with local rules. *See Carey v.*
26 *King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (affirming dismissal for failure to
27 comply with local rule requiring *pro se* plaintiffs to keep court apprised of
28

1 address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987)
2 (dismissal for failure to comply with court order). In determining whether to
3 dismiss an action on one of these grounds, the Court must consider: (1) the
4 public's interest in expeditious resolution of litigation; (2) the Court's need to
5 manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy
6 favoring disposition of cases on their merits; and (5) the availability of less drastic
7 alternatives. See *In re Phenylpropanolamine Prod. Liab. Litig.*, 460 F.3d 1217,
8 1226 (9th Cir. 2006) (quoting *Malone v. U.S. Postal Serv.*, 833 F.2d 128, 130 (9th
9 Cir. 1987)).

10 The first two factors, the public's interest in expeditiously resolving this
11 litigation and the Court's interest in managing its docket, weigh in favor of
12 dismissal of Plaintiff's claims. The third factor, risk of prejudice to defendants,
13 also weighs in favor of dismissal because a presumption of injury arises from the
14 occurrence of unreasonable delay in filing a pleading ordered by the court or
15 prosecuting an action. See *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir.
16 1976). The fourth factor—the public policy favoring disposition of cases on their
17 merits—is greatly outweighed by the factors favoring dismissal.


18 The fifth factor requires the Court to consider whether less drastic
19 alternatives can be used to correct the party's failure that brought about the
20 Court's need to consider dismissal. See *Yourish v. Cal. Amplifier*, 191 F.3d 983,
21 992 (9th Cir. 1999) (explaining that considering less drastic alternatives *before*
22 the party has disobeyed a court order does not satisfy this factor); accord
23 *Pagtalunan v. Galaza*, 291 F.3d 639, 643 & n.4 (9th Cir. 2002) (explaining that
24 “the persuasive force of” earlier Ninth Circuit cases that “implicitly accepted
25 pursuit of less drastic alternatives prior to disobedience of the court's order as
26 satisfying this element[,]” *i.e.*, like the “initial granting of leave to amend coupled
27 with the warning of dismissal for failure to comply[,]” have been “eroded” by
28

1 Yourish). Courts “need not exhaust every sanction short of dismissal before
2 finally dismissing a case, but must explore possible and meaningful
3 alternatives.” *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986).
4 Because this action cannot realistically proceed without the ability for the Court
5 and the defendants to send Plaintiff case-related documents, filings, and orders,
6 the only alternative is to enter a second order setting another deadline. But
7 without an updated address, the likelihood that the second order would even
8 reach Plaintiff is low, so issuing a second order will only delay the inevitable and
9 further squander the Court’s finite resources. Setting another deadline is not a
10 meaningful alternative given these circumstances. So the fifth factor favors
11 dismissal.

12 II. CONCLUSION

13 Having thoroughly considered these dismissal factors, the Court finds that
14 they weigh in favor of dismissal. It is therefore ordered that this action is
15 dismissed without prejudice based on Plaintiff’s failure to file an updated address
16 and an application to proceed *in forma pauperis* by a non-prisoner in compliance
17 with this Court’s January 30, 2025, order. The Clerk of Court is directed to enter
18 judgment accordingly and close this case. No other documents may be filed in
19 this now-closed case. If Plaintiff wishes to pursue his claims, he must file a
20 complaint in a new case and provide the Court with his current address.

21
22 Dated this 13th day of March 2025.

23
24 
25 ANNE R. TRAUM
26 UNITED STATE DISTRICT JUDGE
27
28